IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Criminal Revision No.438 of 1992

Date of Decision: 23.3.2007

Lilu Ram alias Rohtash

.... Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR.JUSTICE MEHTAB S. GILL

Present: Mr. R.S.Cheema, Sr.Advocate
with Mr.Jasdev Singh Mehndiratta, Advocate
for the petitioner.

Mr.Kulvir Narwal, Addl.AG, Haryana.

MEHTAB S. GILL J.

This is a revision petition filed by Lilu Ram alias Rohtash against the judgment dated 6.7.1992 of the learned Additional Sessions Judge, Hisar, whereby he convicted him under Section 279/337/304-A IPC and sentenced to undergo two years R.I. under Section 304-A and to pay a fine of Rs. 3500/-, in default to undergo R.I. for one year, whereas he admonished him under Section 279/337 IPC.

The case of the prosecution is that complainant Ram Chander who was employed as a part time cook at police post Bass, police station Narnaund, stated, that on 3.7.1988 at about 7.00 p.m. he along with one Parkash was present at bus stand Bass, at the tea stall of Telu Ram. Truck

No. HRF-6908 driven by the petitioner/accused was coming from the side of village Mundal. There were about 75/76 members of a marriage party in the truck. The truck was being driven rashly and negligently. There was a big crowd at bus stand Bass. The petitioner suddenly applied the brakes of the truck, as a result of which it went towards the kutcha path and fell in a ditch. Ram Chander, Parkash and Telu Ram rushed to the spot and with the help of some other persons tried to rescue the injured. Due to the accident, Daria, Dharambir, Savita, Sudesh and Richpal son of Fakiria died at the spot, while Ramdhari, Ran Singh, Richpal son of Mansa Ram, Baru, Vijender, Maldev, Chandgi and Om Parkash etc., were injured.

The prosecution to prove its case brought into the witness box Ram Chander-complainant as PW1, Mange Ram as PW2, Mahabir as PW3, Ram Phal as PW4, Hargian as PW5, Nathu Ram as PW6,Chandgi as PW7, Ram Singh as PW8, Richpal as PW9, Parkash as PW10, Sewa Singh as PW11, Ram Dhari as PW12 and Jaibir as PW13.

Learned counsel for the petitioner has argued, that except for complainant Ram Chander, all the eye witnesses and the injured witnesses have not supported the case of the prosecution. Merely the truck being driven at a fast speed does not mean that it is being driven in a negligent manner.

Learned counsel for the State has argued that sole testimony of Ram Chander PW should be sufficient to convict the petitioner. Ram Chander is an injured witness. No less than seven persons have died and many have been injured.

I have heard learned counsel for the parties and perused the

impugned judgment and record with their assistance.

Except for complainant Ram Chander -PW1 and other eye witnesses Mange Ram-PW2, Mahabir-PW3, Ram Phal-PW4, Hargian-PW5, Nathu Ram-PW6, Chandgi-PW7, Ram Singh-PW8, Richpal-PW9, Parkash-PW10, Sewa Sing-PW11, Ram Dhari-PW12 and Jaibir-PW13, have turned hostile and not supported the prosecution case. They have all stated that the petitioner was not driving the truck in a rash and negligent manner but was maintaining a normal speed. The accident occurred due to mechanical defect. One thing these witnesses have clearly stated is that the truck was being driven by the petitioner,. Statement of Ram Chander-PW1 was sufficient to hold the petitioner guilty. The other witnesses have resiled for the reasons best known to them.

I do not find any infirmity in the judgment of the learned trial court. The conviction of the petitioner is maintained.

Revision is of the year 1992 and the occurrence is of the year 1988. The sword of conviction has been hanging over the head of the appellants for the last 19 years. The prosecution witnesses who were travelling in the truck and were injured have resiled from their statements. Sentence of the petitioner is modified to that already undergone.

With the above modification in sentence, revision is dismissed.

(MEHTAB S. GILL)
JUDGE

March 23, 2007
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